

LITTLETON PLEADS FOR THAW

BITTERLY ATTACKS JEROME FOR "SNEERS" AT EVELYN NESBIT.

Calls Hummel One of the Vermin of the New York Bar—Insults the One Defense Mother's Affidavit Overcome by Letter to Teacher—Jerome Today.

Martin W. Littleton, chief counsel for Harry K. Thaw, yesterday afternoon made the last word that will be uttered for his client before the jury selected to try him for the murder of Stanford White. Mr. Littleton spoke for four hours and forty-five minutes, with a recess of only an hour for luncheon, and when he had finished those who heard him were unanimous in the opinion that he had made a logical and powerful argument for the acquittal of Thaw on the ground of insanity.

Some of the audience who crowded the big court room and who had often heard Mr. Littleton speak in advance that he would distribute flowers of rhetoric with prodigious hand from beginning to end of his speech. He did nothing of the kind. With one or two brief but effective interludes Mr. Littleton confined himself largely to argument, a logical marshalling of evidence presented on the witness stand, and the inferences which the defense urged were the only proper ones to draw from that evidence.

He traced the indications of insanity in his client from the insane history of his uncles, through prenatal happenings that might reasonably be supposed to have affected his mental health, through the days of his infancy and childhood, his youth and his early manhood, and down to the one night when he killed Stanford White on the roof of Madison Square Garden. His opening remarks were made in a tone scarcely audible outside the railing within which he stood, but his voice quickly rose until it became distinctly heard all over the court room. But he never raved, and his closing words, though solemn and impressive, were pronounced in a tone little louder than those with which he opened his address.

At the morning session Mr. Littleton contented himself with reviewing the evidence tending to show Thaw's insanity and bringing the case, so far as that feature of it is concerned, down to the time of the shooting. He pointed out that of all these witnesses, with two exceptions, Mr. Jerome had made not the slightest attempt to impeach the testimony by contradictory evidence. The District Attorney, he declared, simply sneered and let it go at that. He repeatedly reminded the jury that this case was not to be tried on sneers or smiles or snirks. Evidence that Thaw was sane when he killed Stanford White was what was demanded, in view of the defense's production of evidence tending to show the contrary. Instead of this, he asserted, the District Attorney had only sneers to offer.

He made a strong point of Mr. Jerome's failure to produce any expert witnesses to swear that Thaw was sane at the time of the killing. "Three weeks ago in my opening address," he said, "I challenged the District Attorney to produce a single expert witness to testify that this defendant was sane. He hasn't done it. Where are all these lost alienists, so many of whom appeared for the prosecution at the first trial of this case?"

Mr. Littleton dwelt at some length upon the bitterness felt by Mr. Jerome toward Thaw's young wife and upon the savagery with which he examined her, and declared again and again that at some times thought the District Attorney was of the opinion that young Mrs. Thaw herself was on trial. He was severe in his attack on Abraham Hummel, whom he referred to as "that vermin of the bar," that "rat" and "that rogue." He also declared that Mr. Jerome had tried to dump "all the slime of Hummel's office" into the lap of Mrs. Evelyn Nesbit Thaw.

Everybody would be jammed into the court room was there at each session. For the first time in the conduct of the case there were a few women present besides reporters and the members of the Thaw family. Thaw's wife came in early and quite by herself. She was followed a few minutes later by Mrs. George Lauder Amory and her daughter, Miss Mary, accompanied by a trained nurse, on whom she leaned heavily. Thaw's wife wore no veil, but the face of his mother was heavily veiled.

Thaw himself stood the day well. He listened quietly to everything Mr. Littleton said and remained quiet even when his counsel was describing him as a madman—a thing that frequently happened. Mr. Jerome was not in court at all. He stayed at home and engaged in the preparation of the speech which he will close the case today. He will probably speak all day. The chances are that Justice Dowling will not charge the jury until to-morrow.

INSANITY HIS ONE DEFENSE.

Mr. Littleton at the outset of his speech said that he knew how well founded was the suspicion against the defense of insanity, but that the evidence in this case left no room for such a suspicion. He then reviewed the cases of insanity among Thaw's relatives and the testimony relating to Thaw's mental and physical condition in his early life, dwelling especially on the letter written by Mrs. Thaw when Harry was ten years old in which she told all of this testimony was met only by the District Attorney's sneers, he said.

Evidence, evidence, evidence, was his continual cry. For the insanity defense, one of Mr. Jerome's strongest points, and he appealed from that to the letter written twenty-five years ago saying:

Mrs. Thaw's LETTER AND AFFIDAVIT.

Now, gentlemen, I want to tell you that I appeal in a sense from the affidavit which is couched in the language of a lawyer, and which was written at the last trial, and perhaps may be filled with all of the instinctive and commendable pride of the mother; appeal from that document to this document, which was written in her own hand more than twenty-five years ago, about which there is none of the confusing phraseology of the lawyer, in which there is none of the confounding phrases of special proceedings, and about which and the meaning of which there can be no doubt; and at a time when the boy is in his period of childhood, except the girl of that despotism which was decreed for him before he was born. I appeal therefore from the affidavit, written in the tumult of a trial, drawn from what I call the plethoric vocabulary of the conventional lawyer, appeal from that, with all its mystifying, bewildering phrases, to the simple document which comes across the reach of twenty-five years; finding in it what was out of the hands of an old man, nearly 80, coming as a very benediction out of the past to interpose its power and its strength between the heavy hand of the law and this defendant. I say that you could not take that letter and retire to your jury room and read it over, gentlemen of the jury, and ever say that this defendant should be punished as a responsible being.

Across the years answering every accusation of fraud, challenging every charge of insincerity, comes this letter. Who wrote the letter? Why, they say, his mother wrote it. Could she have had any object in writing it? If Thaw's brain had been subjected to

no great strain, Mr. Littleton went on, it might never have broken down, and he added:

Every man has got the weight that will break his heart if the weight be found, and every man has the weight that will smite his brain and turn it dark if that weight be found. But if you be sensitive, nervous, predisposed, weak and unbalanced, and your birth, through your infancy and childhood, through your manhood, if you come along through life the prey of every ill, the subject of every assault, do you expect that there will not come a time when some strain will come, some blow will be struck, some terrible thing will happen to you in your career and the cord will snap, as it has snapped with so many men in the world before?

That brought the lawyer to the testimony of the English physicians and nurses about Thaw's actions in London and in Rome. He contrasted this testimony that there was no sign of alcoholism with Mr. Jerome's insinuations that the defendant had been drinking and said that Thaw's mania was prophesied by every event of his youth, proclaimed by every spell of insanity, and forecast in the language of his mother. He referred to Mr. Jerome's statement before the foreign witnesses appeared that he would not call their names so that they might learn whether they were charlatans or not, and commented upon it thus:

I have not offered you any evidence by any insinuation in this case. I have not tried to smile any fact into this case or to sneer any fact into the case. I want to insinuate that this is a serious undertaking, that this is a great burden which is sustained, and I want you to see to it that the District Attorney sustains that burden, not by any innuendo or insinuation, but by facts, the facts of this case as they are applied to the law of the case. That is all I ask for. That is all this defendant should ask for and that is all any person can insist upon, but that much we do insist upon.

AFTERNOON SESSION CROWDED.

When Mr. Littleton resumed his speech in the afternoon the court room was packed and there was a struggling crowd outside. Mr. Littleton referred to the testimony of Miss Fletcher, who said Thaw was irrational. She had known him for twenty-six years and nothing had been produced by the District Attorney to refute her story or the testimony of the other witnesses for the defense about Thaw's actions. Then Mr. Littleton got to Thaw's meeting with Evelyn Nesbit, and their trip to Paris. Of her he said:

Now, gentlemen of the jury, there has been great deal said in this trial, many insinuations made upon Mrs. Nesbit—now Mrs. Thaw—in connection with her narrative of this story to Harry Thaw in Paris. It seems to me that I have discovered in this trial that the District Attorney has cultivated and acquired what is almost an unofficial antipathy to Mrs. Thaw, manifested by his statements before the jury, manifested in his examination of her, manifested by the speech which he made rather than by the necessities or duties which belonged to his office.

I do not care whether you count this person, moral or that person moral, it is not that which you or I believe to be reprehensible conduct at some time either with Thaw or with White. Nevertheless, when we try a case in this country it has been my belief, and I hope it will continue to be my experience—that when a woman is upon the stand as a witness she is entitled to have the testimony elicited from her in the same manner as a man would have elicited from her. At least she is entitled to as much gentility, to as much regard for her feelings, to as much care and tenderness and regard for the ordinary proprieties which a woman and a man could bestow on each other. Now the District Attorney transcended these proprieties in his examination of her I submit to you. At all events it was my judgment, and it is an increasing feeling with me, that throughout this case he has rather been intent on destroying this young woman than he has in demonstrating that this man was sane on the 25th of June, 1906.

"VERMIN OF THE NEW YORK BAR."

Now I will tell you how I feel about that, and I think you will feel about it as I do. I was the District Attorney and had made up my mind that it was my official duty to destroy the character and credibility of a witness in this case, and especially of the wife of the defendant, and I did not have anybody else to do it with except a convict who represented the very vermin of the New York bar, a man whom I had convicted myself for crimes and misdemeanors, a man whom I had indicted for procuring false affidavits and the indictments were pending in my office again, a man who still lingered in prison—I did not have any other person except that to destroy the character of even a person might be criticized as much as he may criticize Mrs. Thaw. I think if I was the District Attorney I would hesitate a long time before I would ask twelve of my fellow citizens to accept that evidence.

His story hadn't been impeached, Mr. Littleton said. He went over her early life and said:

What is there about the life of a person like that that could arouse the savagery, such as such a testimony as that which I have should the District Attorney walk about this pen like a caged lion, and the woman crouching in the chair, and glare and advance and retreat? Why should he do that? And then addle and confuse the jury with this very loathsome vermin of the New York bar whom he convicted himself? Why should he do that? What has she done that she deserves to be pelted all over with infamy and degradation? And what has Hummel done that he deserves to have the backing of the District Attorney in a court of justice—the only witness that he can summon from the court room to the march to blacken the character of this young woman? Would you impeach the character of any living being upon the evidence of a man such as Hummel's evidence is in this case?

And yet there is nothing about that. This man who speaks to us from across in the prison, who is serving his time, given to him by the man who now touches for him, who stands on an indictment for procuring false affidavits and the indictments are pending in his office again. Is there any rebuttal in this case except that? I say it seemed to me—now, let me be fair about it; I do not wish to be unjust with the District Attorney, and I am a good friend to him. I am a good friend to him, more anxious to destroy this young woman before you and in this court and in the community; destroy her at all hazards and by all means than to do as the District Attorney has done. Thaw was actually sane on the 25th of June, 1906—rather have the same that issues from Howe & Hummel's office come trickling down through this case than to have the scientific theories of his eleven experts that Thaw was sane on June 25, 1906.

The letter written by Thaw to his lawyer, Longfellow, in October, 1903, showed, Mr. Littleton said, that Miss Nesbit had told him that she was not sane. He said that Miss Nesbit had not told Thaw there was no way he could have got the information about her which he put in the letter to Longfellow.

As soon as she got back from Paris, White and his friends told her stories about Thaw. "Poison, poison, poison!" said Mr. Littleton. "I am a good friend to him, more anxious to destroy this young woman before you and in this court and in the community; destroy her at all hazards and by all means than to do as the District Attorney has done. Thaw was actually sane on the 25th of June, 1906—rather have the same that issues from Howe & Hummel's office come trickling down through this case than to have the scientific theories of his eleven experts that Thaw was sane on June 25, 1906."

The making of the affidavit in Hummel's office and the photographing of the last page was a queer proceeding. White wanted the affidavit to protect himself, for he knew that she had told Thaw in Paris of her relations with him. White was afraid that Thaw, when he returned from Europe, would make an attack on him.

THAW'S LETTERS TROUBLED A LUNATIC.

The letters written by Thaw were those of a crazy man, Mr. Littleton said. As to the testimony of James Clinch Smith, Mr. Littleton said that he forgave Smith for his feelings of the best lawyer in the law-in-law and wanted to see Thaw convicted; but the jury should not accept his testimony, for it was the testimony of a man

biased, who was not telling the truth. Mr. Littleton's attack on Smith was bitter, as was the attack on Thaw's insanity by the testimony offered by Mr. Jerome bearing on the condition of Thaw's mind on the night of the shooting. Mr. Littleton figured it out that the man who had taken identity when Thaw spoke to Smith, as the conversation showed that Thaw must have figured Smith out for somebody else.

The stories circulated by White and his friends, and which Thaw heard, were enough to drive a man of strong mind mad. Where Thaw was in church with his mother in Pittsburgh and cried his manner "was not the action of a murderer or assassin. Everything he did at his mother's home so that time indicated that his mind was weak."

"Where are the alienists?" asked Mr. Littleton. Mr. Jerome has said in the last trial, with heavy emphasis, that they are not worthy of belief? Or is it that with a full history of this boy's case cannot get one of them to swear that Thaw was not insane the night he did this killing?

"You must keep in mind that if you have a reasonable doubt as to the sanity of the man on the night of the killing you must acquit him. Do not let the District Attorney fool you into believing anything else. That is your duty and that is what this defendant is entitled to. I have endeavored to present to you all the evidence in the case. I have done so to the best of my ability. Gentlemen, I leave the destiny of this young man, whether it is life or death, in your hands."

It was close to 5 o'clock when Mr. Littleton closed. There was no grandstand play at the finish and a number of persons congratulated Mr. Littleton on his speech.

J. S. MATHEWS, JR., DROWNED.

Fell Overboard From Barge of E. W. Bliss Co., in Whose Employ He Was.

SAG HARBOR, L. I., Jan. 29.—John S. Mathews, Jr., 22 years old, a nephew of James Warren Mathews, a wealthy resident of the E. W. Bliss Manufacturing Company, and paymaster aboard the gun barge Elphinstone, used in the work of testing torpedoes on the range off this place, fell overboard about 11 o'clock last night and was drowned.

Mr. Mathews was a graduate of the Polytechnic Institute, Brooklyn, and had been connected with the E. W. Bliss Company ever since his graduation. The gun barge was anchored in Sag Harbor, off this place.

Mr. Mathews had been playing cards in a room on the upper deck and later started for his sleeping quarters on the lower deck. The bay was rough and the deck was glassy with ice. He missed his footing in the darkness and was thrown overboard by the lurching of the boat. He was seen to go overboard by Leavitt Mersereau, superintendent of the Sag Harbor range, and by a lookout on the barge. A boat was launched and he was picked up unconscious.

The body of the drowned man was recovered this morning and was sent to the home of his father, Mr. James Mathews, in Brooklyn. The young man was to be married shortly. He was a member of the recent Athletic Club of Brooklyn and a number of fraternal organizations.

AMORY ACCUSES JEROME.

And Says the Grand Jury Has Invited Him to Confide in It.

William M. Amory was present for Assistant District Attorney Kresel yesterday afternoon to tell the Grand Jury what he knew about the alleged crookedness in the Metropolitan Street Railway case. Mr. Amory gave out a typewritten statement which he said he had read to the Grand Jury. It says:

In 1903 I was requested by Mr. Jerome to submit to the Grand Jury evidence of criminality on the part of the Metropolitan Street Railway Company. I delivered all the information which I had and spent months with him in working up the cases against the Metropolitan Street Railway Company, and what I was through I found that Mr. Jerome was acting for the railway.

Mr. Jerome admitted to my counsel, Mr. James W. Osborne, and my other counsel, Mr. Coleman Drayton, that he was assisted by crimes had been committed by the Metropolitan Street Railway Company officials, but he refused to prosecute them. Therefore I refuse to let the information before the present District Attorney be associated with me, but will tell some independent disinterested gentleman selected by you or the Attorney General or the Governor. I will not give any information to the Grand Jury, but I found the information which I did give in 1903 was transmitted to the accused parties.

Outside Mr. Amory said:

"Before the Grand Jury this afternoon I accused Mr. Jerome of violating the statute for conspiracy to prevent the prosecution of criminals and of doing it willfully. I offered to appear before the Grand Jury as a committee of the Grand Jury, but I do not see why it should be objectionable. They know as well as we do that if they can keep their regular wages and the railroad pay so far there is no movement on the part of the railroads to reduce wages. They are retrenching in other ways on account of the strike in traffic by using fewer trains which means fewer crews. If there was a disposition to reduce wages there would be a concerted movement among the railroads. The regular thirty days notice would be given to the men and there would be conferences at which the new scale would be fixed."

ROB EXPRESS AGENT OF \$3,000.

Held Up in Station With Many Passengers Near—Two Arrested.

MANFIELD, Ohio, Jan. 29.—Two masked men entered the office of the Adams Express Company at the station here yesterday afternoon and held up William Depew, the agent, and a number of passengers with \$3,000 while a hundred passengers stood about the station platforms. A bag containing \$40,000 in gold which lay near the \$3,000 was overlooked.

According to the story told by Frank McGinty, the agent's assistant, the robbers entered the office and asked for a package which they said they thought had arrived on late train. While Depew was looking for the supposed package, one of the robbers struck him on the head, while the other robber covered McGinty with a revolver. McGinty gave the alarm as soon as the men had gone.

NEW LONDON, Ohio, Jan. 29.—John McCue and Joseph Stevens, both with police records, were arrested yesterday morning. The \$3,000 stolen from the Adams Express Company at Mansfield was found, the police declare, in their possession, and the two men were charged with the robbery. After the robbery the men hired a farmer to drive them to Gallion, where they took a train for Cleveland.

STATE PAPERS RECOVERED.

Salvaged by Yachse Detective.

James McCue of 41 James street was held in \$1,000 bail by Magistrate Butts in the Tombs police court yesterday charged with stealing a handbag which contained important Government papers belonging to J. G. Guerrero, secretary to the Legation of Salvador in Washington.

FROM ROYAL GRAPE CREAM OF TARTAR Baking Powder ABSOLUTELY PURE

VACATIONS ON HABEAS CORPUS

EDWARD J. RUSSELL GETS ANOTHER TRIP TO NEW YORK.

A Suggestion That in Future the Writ Be Made Returnable in the Dannemora Prison—Last Time He Subpoenaed Odell and Several Supreme Court Justices.

Edward J. Russell, the criminal paranoiac who was sent to Dannemora prison several years ago on a charge of attempted extortion and who has a long criminal record from Illinois to New York, is to air his grievances again in this county on a writ of habeas corpus signed yesterday by Justice Coff in the Supreme Court on the application of Clark Bell as counsel for Margaret M. Fox.

The expense of the hearing, which may be prolonged for several weeks, will fall on the taxpayers of New York and the proceedings will help to throw the calendar back. The last time Russell got a hearing in this county, before Justice Truax, the proceedings lasted over two weeks and Russell refused to come to court under subpoena several Justices of the Supreme Court who had previously passed on his case and a number of politicians, including ex-Gov. Odell.

Russell, whom numberless doctors have pronounced incurably insane, suffers from the delusion that his incarceration is due solely to the influence of politicians who fear his knowledge, as he believes it, of the inside of several political incidents of the last decade, including several that happened while he was in jail. None of the last decade, however, has been through his habeas corpus proceedings, and he is generally looked upon as the most persistent applicant for habeas writs, which cannot be granted.

The last time Russell asked for a writ of the Justice to whom the application was presented, he refused to sign the writ under the constitutional provision to that effect, he could name the place where the hearing might be held, and would make it returnable in Clinton county, where Dannemora prison is. That did not suit Russell or his friends at all, as they are bent always on trips to New York and Brooklyn, said his Justice. Russell was accused of attempting to blackmail Almet F. Jenks.

COMPARE THE PRICES.

We purchased the entire stock of Lars G. Ericson, importing tailor, Windsor Arcade, Fifth Avenue, and quote his prices and ours:

Overcoat, \$100.00. Our price, \$25.00.
Suits, \$90.00. Our price, 25.00.
Trousers, \$22.00. Our price, 7.00.
Fancy Waistcoats, \$20.00. Our price, 5.00.
Sale on second floor.

ARNHEIM Broadway & Ninth St.

AMUSEMENTS.

EMPIRE THEATRE. 8th & 9th Sts. 8:30. MAUDE ADAMS. THE JESTERS.

SAVOY 34th St. near Broadway. Eves. 8:30. 20 DAYS IN THE SHADE. By Paul M. Potter.

CRITICON THEATRE. 8th & 4th Sts. 8:30. THE DUTCH MUSICAL INCIDENT.

HUDSON 44th St. n. Broadway. Eves. 8:30. ETHEL BARNUM. THE HONEY SISTER.

BARRICK 34th St. n. Broadway. Eves. 8:30. Maxine Elliott. UNDER THE GREENWOOD TREE.

EDNA WALLACE HOPPER. 30 MILES IN 100. M. COHAN'S "FROM BOSTON."

LYCEUM THEATRE. 8th & 4th Sts. 8:30. THE TALK OF NEW YORK.

MANHATTAN OPERA HOUSE. 14th St. n. Broadway. Eves. 8:30. THE TALK OF NEW YORK.

SAT. MAT. 2-4. RIGOLETTO. 6th appearance MISS TERRAZZINI. Mrs. G. M. Dalmores, Gilbert and 22nd principal.

SAT. NIGHT. Grand double bill, pop. prices 50c. CAVALLERIA RUSTICANA. Mrs. G. M. Dalmores, Gilbert and 22nd principal.

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R. H. Macy & Co.'s Attractions Are Their Low Prices

Continuing Two Remarkable Sales

Suitings and Gingham

At Extraordinarily Low Prices

\$1.50 Suitings at 78c

Fancy Worsteds Suitings, 48 and 54 inches wide; stripe and check effects in the colorings most desirable for early spring wear. Made to sell for \$1.50 a yard.

Imported Gingham

Beautiful Gingham—every yard perfect; made in Scotland by one of the foremost manufacturers of cotton goods of this character.

This collection comprises all the plain colors, shepherd checks in all sizes and colors, neat stripes, fancy and tartan plaids; widths 28 and 32 inches.

28c to 35c a yard.

POSITIVELY LAST THREE DAYS

The Imperial Persian Commissioner

H. H. TOPAKYAN

Established for over 20 years, now retiring from business, is forced to dispose of his enormous stock of fine

ORIENTAL RUGS AND CARPETS

(Before his return to Persia) at 264 5th Avenue, corner 29th Street.

Sale begins TO-DAY at 2:30 P. M. The sale in charge of Mr. George H. Weigert.

COMPARE THE PRICES.

We purchased the entire stock of Lars G. Ericson, importing tailor, Windsor Arcade, Fifth Avenue, and quote his prices and ours:

Overcoat, \$100.00. Our price, \$25.00.
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just between us, boys, this isn't a "sale"—it's just a revision of prices.

But get your mother to figure out the savings.

191 boys' Winter overcoats, Tourist and regular, are \$10 now—an average reduction of 45%.

236 boys' double-breasted suits are \$6.50 and \$8.50 now—an average reduction of 40%.

488 boys' Norfolk suits are \$6.50, \$8.50 and \$10.50 now—an average reduction of 37%.

145 boys' Russian overcoats are \$5.50 and \$7.50 now—an average reduction of 40%.

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AMUSEMENTS.